

BAUMOLLER et al. S.N. 10/051,529

*A1
Cans*
12 --26. (new) The fibrous web according to claim 14,
wherein the fibrous web is a toilet paper having from 2 to 4
plies.--

REMARKS

The application has been amended as needed so as to place it in condition for disposal at the time of the next Official Action.

For the Examiner's convenience, the status of the claims is as follows: claims 1-13 have been cancelled and replaced with new claims 14-26 which are drafted in accordance with American practice. Specifically, the expression "characterized in that" has been replaced with the more common --wherein--.

Claims 1-6, 8, 9, 12 and 13 were rejected under 35 USC §102(b) as being anticipated by the German reference DE 199 06 081. The Official Action states that the German reference teaches treating tissue papers with water-in-oil emulsions containing an emulsifier consisting of 5 to 25% by weight of polyol poly-12-hydroxy stearate, oils consisting of 50 to 90% by weight of waxy esters, as well as 5 to 25% by weight of waxes, and about 20 to 25% of water.

Claims 1-6, 8, 9, 12 and 13 were also rejected under 35 USC §103(a) as being unpatentable over the German reference. The Official Action states that although the German reference is

silent with respect to the oil component having a particular viscosity, the foreign reference generally teaches waxy esters which are known in the art to have a fluid consistency at 20° C. It is concluded that it would have been obvious to one of ordinary skill in the art to have prepared a composition as taught by the German reference, since the latter teaches a tissue paper comprising waxy esters, an emulsifier, and water.

Reconsideration of the above rejections is respectfully requested for the following reasons.

The present invention relates to a fibrous web treated with a lotion composition based on an **oil-in-water** emulsion, comprising

- (A) at least one oil,
- (B) an oil-in-water emulsifier or oil-in-water emulsifier combination, and
- (C) 6 to 35 wt% of water, based on the total weight of the lotion composition.

The Official Action states that the reference teaches treating tissue papers with water-in-oil emulsions containing various ingredients which may partially overlap with those used in the herein claimed invention.

It is however pointed out that water-in-oil emulsions and **oil-in-water** emulsions are easily distinguishable, since in the former, oil forms the outer phase, whereas in the latter, the outer phase is formed by water. Therefore, it should be readily

apparent that the German reference simply fails to disclose the claimed fibrous web carrying an oil-in-water emulsion.

It is well settled that: "A rejection for anticipation under §102 requires that each and every limitation of the claimed invention be disclosed in a single prior art reference". See *In re Paulsen*, 31 USPQ2d 1671 (Fed. Cir. 1994).

In the present case, the cited German reference does not contain any explicit teaching regarding oil-in-water emulsions. Moreover, there are no passages which could implicitly lead to the claimed fibrous web carrying an oil-in-water emulsion. To the contrary, as is correctly observed in the Official Action, all the examples of the German reference are of the water-in-oil type. Accordingly, it is respectfully submitted that the German reference fails to anticipate the herein claimed invention.

In addition, it should be emphasized that the present invention leads to various unexpected advantages over lotioned tissues carrying a water-in-oil emulsion in line with the teaching of the German reference.

The lotions shown in Table 1 on page 9 of the German reference are very similar or identical to those disclosed in the European reference EP 1 029 977. This is already explained in the original application text, wherein it is stated that Example 1 of the reference corresponds to lotion (F) of the European reference. Furthermore, the present application provides on page

39, a comparison between the water-in-oil type lotions of the European reference and the herein claimed lotions. This comparison resulted in surprisingly low water absorption times (three seconds) for the claimed lotion tissue paper including the oil-in-water emulsion, whereas the water absorption time for the water-in-oil emulsions of the European reference were typically on the order of at least one hour. The same holds true for the water-in-oil type lotions disclosed by the German reference.

In summary, it is respectfully submitted that the German reference simply fails to disclose or suggest any technique that would lead a person having ordinary skill in the art to the herein-claimed lotioned fibrous web which exhibits these surprisingly low water absorption times, and simultaneously carries a lotion which shows good stability, the capacity to transfer lotion to the skin of the user, and a pleasant feel on the skin.

*not
claimed*

The Primary Examiner's indication of allowability with respect to claims 7, 10 and 11 is sincerely appreciated. However, in view of the present amendment and the foregoing remarks, it is believed that all of the currently pending claims, namely claims 14-26, patentably distinguish from the applied German reference.

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An early indication of allowability with respect to
claims 14-26 is accordingly earnestly solicited.

Respectfully submitted,

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